

## CHAPTER 6.0 COMMENTS AND COORDINATION

This chapter summarizes the agency coordination, NEPA/404 merge coordination, tribal coordination, and public involvement that have taken place during the development of this EIS. Appendix N contains meeting summaries from the agency scoping meeting and coordination letters received from the agencies. Appendix O contains meeting summaries and coordination letters to and from Native American tribes (sensitive information omitted). Appendix P contains meeting summaries from public information meetings and a summary of comments received from the public.

### 6.1 AGENCY COORDINATION

#### 6.1.1 Early Coordination

Early coordination for the project was conducted with federal, state, and local resource agencies. An early coordination packet and invitation to the agency scoping meeting was mailed on August 5, 2008. The entities contacted as part of the early coordination efforts are as follows:

##### *Federal*

- U.S. Army Corps of Engineers – Gavins Point Project Office
- U.S. Army Corps of Engineers – Operations (Omaha District)
- U.S. Department of Agriculture, Natural Resources Conservation Service – Nebraska State Office
- U.S. Department of Agriculture, Natural Resources Conservation Service – Bloomfield Service Center
- U.S. Department of Homeland Security, Federal Emergency Management Agency – Region VII
- U.S. Department of Housing and Urban Development
- U.S. Department of the Interior, Bureau of Indian Affairs
- U.S. Department of the Interior, National Park Service – Missouri National Recreational River Headquarters
- U.S. Department of the Interior, U.S. Fish and Wildlife Service – Nebraska Ecological Services Field Office
- U.S. Department of Transportation, Federal Aviation Administration – Airports Division
- U.S. Department of Transportation, Federal Highway Administration – Nebraska Division
- U.S. Department of Transportation, Federal Railroad Administration – Region VI
- U.S. Environmental Protection Agency – Region VII
- U.S. Small Business Administration – Nebraska District Office

*State*

- Center for Rural Affairs
- Nebraska Commission on Indian Affairs
- Nebraska Department of Aeronautics
- Nebraska Department of Environmental Quality
- Nebraska Department of Health and Human Services
- Nebraska Department of Natural Resources
- Nebraska Department of Roads
- Nebraska Game and Parks Commission
- Nebraska State Historical Society/Nebraska State Historical Preservation Office
- Nebraska Trucking Association
- Urban League of Nebraska

*Tribal<sup>1</sup>*

- Iowa Tribe of Oklahoma
- Omaha Tribal Council
- Pawnee Nation of Oklahoma
- Ponca Tribe of Nebraska
- Winnebago Tribal Council

*Local*

- Knox County – Board of Supervisors
- Lewis and Clark Natural Resources District
- Village of Niobrara

### 6.1.2 Agency Scoping Meeting

An agency scoping meeting was held on August 28, 2008, from 1:00 to 3:00 p.m. at the WFLA Hall in Niobrara. Pursuant to 40 CFR 1501.7, the purpose of the meeting was to determine the scope of issues to be addressed and to identify the significant issues related to the project. Forty individuals representing the following 15 agencies and two tribes attended the agency scoping meeting:

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<sup>1</sup> The Corps' government-to-government consultation with Indian tribes, as required under EO 13175 Consultation and Coordination with Indian Tribal Governments, is detailed in Section 6.4.

*Federal*

- U.S. Army Corps of Engineers – Gavins Point Project Office
- U.S. Army Corps of Engineers – Omaha District
- U.S. Department of Agriculture, Natural Resources Conservation Service – Hartington Service Center
- U.S. Department of the Interior, Bureau of Indian Affairs – Winnebago Agency
- U.S. Department of the Interior, National Park Service – Lewis and Clark National Historic Trail
- U.S. Department of the Interior, National Park Service – Missouri National Recreational River Headquarters
- U.S. Department of the Interior, U.S. Fish and Wildlife Service – Nebraska Ecological Services Field Office
- U.S. Senator Ben Nelson’s Office

*State*

- Missouri River Futures
- Nebraska Department of Environmental Quality
- Nebraska Department of Roads
- Nebraska Game and Parks Commission
- Niobrara State Park
- Nebraska State Historical Preservation Office/Nebraska State Historical Society

*Local*

- Knox County – Board of Supervisors

*Tribal*

- Ponca Tribe of Nebraska
- Santee Sioux Nation

During the agency scoping meeting, the project history, the range of alternatives, the issues identified during past coordination, new agency concerns, and next steps were discussed. Table 6-1 summarizes the input from agencies at the scoping meeting and in subsequent letters. (Note: Table 6-1 does not address tribal comments; these are summarized in Section 6.4.1.) The meeting summary of the scoping meeting and written responses received during early coordination are provided in Appendix N. Tribal coordination is discussed in Section 6.4.

**Table 6-1  
Summary of Agency Scoping Meeting Comments**

Agency <sup>1</sup>	Comments
U.S. Department of the Interior, Bureau of Indian Affairs	Concerns with burial sites, cultural and archaeological resources; BIA can assist with tribal ROW and easements; watershed issues, protection of well water for home sites; resources in the bluffs
U.S. Department of the Interior, National Park Service	Wild and Scenic River protection; fish and wildlife impacts; migratory birds; water quality; wetlands/waters of the U.S./waterways; support a road in the bluffs
U.S. Department of the Interior, National Park Service – Lewis and Clark National Historic Trail	Public access and recreation; would prefer roadway on the bluffs, but are sensitive to tribal issues; requested information on sediment removal
U.S. Department of the Interior, U.S. Fish and Wildlife Service and Nebraska Game and Parks Commission	Verdigre and Bazile Creek watersheds proposed for conservation easements; wildlife crossings implemented in the roadway design; threatened and endangered species in the Study Area include pallid sturgeon, least tern, piping plover, American burying beetle, dace, whooping crane; bald eagle nest sites
U.S. Environmental Protection Agency	Concerns with potential impacts on wetlands/waters of the U.S. and the availability of practicable alternatives
Nebraska Department of Environmental Quality	Water quality concerns; altering a mainstem dam
Nebraska Department of Roads	Concerns about project delay and deteriorating conditions; roadway stability in Pierre shale; landowner access and recreation; continuity with Nebraska Highway 14
Nebraska State Historical Preservation Office/Nebraska State Historical Society	Irreversible archaeological impacts; prehistoric and historic resources; burial mounds and village in Alternative 4; east of Niobrara would have fewer archaeological issues; landowner access; borrow sites
Knox County	Maintenance of existing road; slides and roadway stability; loss of eagle habitat due to high water levels; burials in bluffs; comprehensive plan; Pierre Shale

Note:

<sup>1</sup> Comments from the Ponca Tribe of Nebraska and Santee Sioux Nation are summarized in Section 6.4.1.

## 6.2 COOPERATING AGENCIES

### 6.2.1 Cooperating Agency Agreement

The Corps (the lead agency in the preparation of the EIS) and five other agencies entered into a cooperating agency agreement pursuant to 40 CFR 1501.6 on June 5, 2009. This agreement defines the roles and responsibilities of each agency involved in the project. An agreement is entered into to maximize availability of resources, facilitate public involvement, expedite interagency review, and avoid duplication of effort. The cooperating agencies include:

- Federal Highway Administration
- National Park Service
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- Knox County

## 6.2.2 Cooperating Agency Meetings

The Corps held several meetings with the cooperating agencies. Some meetings were held with all of the cooperating agencies, some with smaller groups, some with additional review agencies (merge agencies) (see Section 6.3), and some with a single agency. Each meeting is discussed below.

### *December 11, 2008 – Cooperating Agencies*

The Corps met with all of the cooperating agencies on December 11, 2008, at Niobrara State Park in Niobrara. The purpose of the meeting was to review the project status and schedule, discuss agency responsibilities and the cooperating agency agreement, introduce Concurrence Points 1 and 2(a), and summarize the alternative screening process. The agencies were asked to provide comments on the cooperating agency agreement by January 20, 2009.

### *January 9, 2009 – National Park Service*

The Corps met with NPS on January 9, 2009, via teleconference. The purpose of the meeting was for NPS to provide the Corps with an overview of the Section 7(a) evaluation process and to discuss the format of the draft Section 7(a) evaluation report.

### *January 12, 2009 – Cooperating Agencies*

The Corps met with a majority of the cooperating agencies (Knox County was not present) and NDOR on January 12, 2009, via teleconference. The purpose of the meeting was to help NDOR determine where and how to include an alternative that incorporates bridges to maintain connectivity of wildlife and fish habitat as well as connectivity of hydrology. Such an alternative was proposed by NPS and USFWS at the cooperating agency meeting on December 11, 2008, and by the Ponca Tribe at the agency scoping meeting on August 28, 2008.

### *January 16, 2009 – Federal Highway Administration*

The Corps met with FHWA on January 16, 2009, at the FHWA Nebraska Division office in Lincoln, Nebraska. The purpose of the meeting was to discuss the process for screening alternatives on cost. The Corps also requested any design guidelines for Pierre Shale.

### *February 23, 2009 – U.S. Fish and Wildlife Service*

The Corps met with USFWS on February 23, 2009, via teleconference. The purpose of the meeting was to discuss USFWS's request for funding to provide technical assistance for the project.

### *June 23, 2009 – National Park Service*

The Corps met with NPS on June 23, 2009, via teleconference. The purpose of the meeting was to discuss the proposed schedule for the Draft Section 7(a) Evaluation.

***July 8, 2009 – National Park Service and Nebraska Department of Environmental Quality***

The Corps met with NPS as well as NDEQ on July 8, 2009, via teleconference. The purpose of the meeting was to discuss the June 25, 2009, mailing, which included culvert and bridge changes to the floodplain alternative and figures of the floodplain and avoidance alternatives.

***July 23, 2009 – Cooperating Agencies***

The Corps met with a majority of the cooperating agencies (EPA and Knox County were not present) as well as NGPC and NDEQ on July 23, 2009, via teleconference. The purpose of the meeting was to discuss an elevated roadway alternative to maximize connectivity for the most ecologically dynamic ecosystem. This alternative was discussed previously on January 12, 2009.

***August 17, 2009 – National Park Service***

The Corps met with NPS on August 17, 2009, at the Ponca State Park office near Ponca, Nebraska. The purpose of the meeting was to discuss Section 404(b)(1) guidelines, requirements of the Section 7(a) process, and a pierced roadway concept.

***February 2, 2010 – National Park Service and U.S. Fish and Wildlife Service***

The Corps met with NPS and USFWS as well as NGPC on February 2, 2010, via teleconference. The purpose of the meeting was to discuss comments received from NPS regarding the cost screening process used in the alternatives analysis.

***September 3, 2010 – National Park Service***

The Corps met with NPS on September 3, 2010, at the NPS office in Yankton, South Dakota. The purpose of the meeting was to discuss NPS input to date, the Corps' alternatives screening process, and the Section 7(a) process.

***September 10, 2010 – U.S. Environmental Protection Agency***

The Corps met with EPA on September 10, 2010, at the EPA Region VII office in Kansas City, Missouri. The purpose of the meeting was to discuss the alternatives screening process, wetland functions, and tribal 401 information needs.

***September 15, 2010 – Cooperating Agencies***

The Corps met with a majority of the cooperating agencies (FHWA and EPA were not present) as well as NGPC and NDEQ on September 15, 2010, at the Ponca State Park office near Ponca, Nebraska. The purpose of the meeting was to discuss the alternatives carried forward for evaluation in the EIS.

***April 5, 2011 – National Park Service***

The Corps met with the NPS on April 5, 2011, at the NPS Midwest Regional office in Omaha and via teleconference. The purpose of the meeting was to provide an overview of alternatives, discuss visual impacts, and discuss the Section 7(a) process.

***June 6, 2011 – National Park Service***

The Corps met with NPS on June 6, 2011, at the NPS Midwest Regional office in Omaha and via teleconference. The purpose of the meeting was to discuss the methodology for a visual assessment.

***August 9, 2011 – Cooperating Agencies***

The Corps met with a majority of the cooperating agencies (FHWA and EPA were not present) as well as NGPC and NDEQ on August 9, 2011, via teleconference. The purpose of the meeting was to provide an update on project activities that have taken place from January 2011 to date. The agencies agreed to a coordination meeting during their Preliminary Draft EIS review period to discuss comments and questions on the document.

***September 13, 2011 – National Park Service***

The Corps met with NPS on September 13, 2011, via teleconference. The purpose of the meeting was to discuss the recently-held NPS ORV [outstandingly remarkable values] workshop and its affect, if any, on the preparation of the Section 7(a) evaluation for the project. The purpose of the workshop was to create more narrative descriptions of the MNRR ORVs. After completion of these descriptions, NPS would provide the foundation document to the Corps to guide the development of the Section 7(a) evaluation.

***February 13, 2012 – National Park Service***

The Corps met with NPS on February 13, 2012, at the NPS Midwest Regional office in Omaha and via teleconference. The purpose of the meeting was to discuss the methodology used to perform the visual analysis and to review the draft renderings of Alternatives A2, A3, and B1 within the viewshed.

***March 14, 2012 – All Cooperating Agencies***

The Corps met with a majority of the cooperating agencies (FHWA was not present) as well as NPGC and NDEQ on March 14, 2012, via teleconference. The purpose of the meeting was to provide an update on project activities that have occurred since August 2011 and to discuss the project schedule going forward. Since the last cooperating agency meeting, NDOR has decided that it will apply for Alternative A2, Parallel Alignment.

***July 17, 2012 – National Park Service***

The Corps met with NPS on July 17, 2012, via teleconference. The purpose of the meeting was to discuss NPS comments in an email dated June 29, 2012, regarding the visual analysis.

***March 18, 2014 – National Park Service***

The Corps met with NPS on March 18, 2014, at the NPS Midwest Regional office in Omaha. The purpose of the meeting was to provide an overview of the project (history and status) to new NPS staff.

*May 6, 2014 – National Park Service*

The Corps met with NPS on May 6, 2014, at the NPS Midwest Regional office in Omaha. The purpose of the meeting was to discuss the project background, provide a status update, discuss the Section 7(a) evaluation outline, and to discuss the visual analysis.

*November 3, 2014 – National Park Service*

The Corps met with NPS on November 3, 2014, at the NPS Midwest Regional office in Omaha. The purpose of the meeting was to discuss changes in the project that have occurred since the May 6, 2014, meeting; bridge lengths; the visual analysis; and the current project schedule.

*July 16, 2015 – Cooperating Agencies*

The Corps met with the cooperating agencies on July 16, 2015 for an agency review of the Preliminary Draft EIS. Representatives from NPS, USFWS, EPA, FHWA, NGPC and NDEQ were in attendance.

### 6.3 NEPA/404 MERGE COORDINATION

The merging of the NEPA and Section 404 permit processes facilitates the development of a coordinated NEPA environmental document (this EIS) and Section 404 permit application. It minimizes the risk of environmental conflicts and redundant reevaluations during the Section 404 permit process. The typical NEPA/404 process for an FHWA-lead EIS in Nebraska provides for four written concurrence points: Purpose and Need, Alternatives Carried Forward, Selected Alternative, and Impact Minimization. The first two points are reached prior to the approval of this Draft EIS and the second two points occur during the review of the Final EIS. While this is a Corps Regulatory led EIS, the NEPA/404 process was followed due to the cooperating and merge agency familiarity with the process. In addition to the Cooperating Agencies listed in Section 6.2, the NGPC and NDEQ are the additional agencies coordinated with as part of the NEPA/404 Merge Coordination process.

Following the Nebraska Local Operating Procedures for Integrating NEPA/404 (FHWA 2008), the project purpose and need (Concurrence Point 1) was circulated to the cooperating agencies on March 9, 2009. All agencies provided written concurrence (pending suggested changes) by March 20, 2009.

Concurrence Point 2 was broken into 2a – Range of Alternatives, and 2b – Alternatives Carried Forward. Concurrence Point 2a was circulated to the cooperating agencies on April 6, 2009, and all agencies provided written concurrence (pending suggested changes) by April 20, 2009. Concurrence Point 2b was initially circulated on December 1, 2009. Subsequently, however, NDOR determined that revisions to the limits of construction and costs for each alternative were necessary. In addition, the Corps decided to research and review additional data for inclusion in Chapter 2.0 as requested by USFWS, NPS, and NGPC. The updated Concurrence Point 2b was circulated on September 16, 2010. Two agencies, NPS and USFWS, responded by email to Concurrence Point 2b by requesting additional information on mitigation costs. The Corps provided them with estimates on wetland mitigation and tree replacement costs. EPA concurred with Concurrence Point 2b on September 24, 2010.



The final Concurrence Points 3, Selected Alternatives, and 4, Impact Minimization, would be circulated with and as a part of the complete Preliminary Draft EIS review by the agencies.

## 6.4 TRIBAL COORDINATION

### 6.4.1 Scoping Meeting

Representatives of the Ponca Tribe of Nebraska and the Santee Sioux Nation attended the agency scoping meeting held in Niobrara on August 28, 2008 (see Section 6.1.2). The Ponca Tribe of Nebraska expressed concerns over known and unknown gravesite locations along the potential alignments and in borrow locations, voiced support for maintaining the existing alignment, and suggested raising the roadway on a bridge or causeway. The Santee Sioux Nation was concerned with the economic impact of the project on its casino and gas station. The Santee Sioux Nation does not support Alternatives 3 and 4, noting the location of a cemetery in the corridor of Alternative 3.

### 6.4.2 Scoping Information Packet

On November 3, 2008, the Corps sent letters and information packets providing background information on the project to the following tribes to establish whether each group wanted to act as a cooperating agency and to seek their comments concerning the project:

- Flandreau Santee Sioux
- Iowa Tribe of Kansas and Nebraska
- Lower Brule Sioux
- Oglala Lakota Tribe
- Omaha Tribal Council
- Omaha Tribe of Nebraska
- Otoe-Missouri Tribe
- Pawnee Nation of Oklahoma
- Ponca Tribe (in Ponca City, Oklahoma)
- Ponca Tribe of Nebraska (in Niobrara)
- Rosebud Lakota Tribe
- Sac & Fox Nation of Missouri in Iowa
- Sac & Fox Nation of Oklahoma
- Santee Sioux Nation
- Sisseton-Wahpeton Sioux
- Spirit Lake Sioux Tribe (Mni Wakan Oyate)
- Standing Rock Sioux Tribe
- Three Affiliated Tribes (MHA Nation)

- Winnebago Tribe of Nebraska
- Yankton Sioux Tribe

Communication and coordination with the Ponca Tribe of Nebraska and the Santee Sioux Nation are ongoing, but no other tribe has commented on the project.

On August 24, 2015, the Corps sent letters and information packets updating the following tribes about the project and asked whether each group desired the opportunity to meet and consult:

- Cheyenne River Sioux
- Crow Creek Sioux
- Flandreau Santee Sioux
- Iowa Tribe of Kansas and Nebraska
- Lower Brule Sioux
- Oglala Sioux Tribe
- Omaha Tribe of Nebraska
- Otoe-Missouri Tribe
- Pawnee Nation of Oklahoma
- Ponca Tribe of Nebraska (in Niobrara)
- Rosebud Sioux Tribe
- Sac & Fox Nation of Missouri in Iowa
- Sac & Fox Nation of Oklahoma
- Sac & Fox Tribe of the Mississippi in Iowa (Meskwaki Nation)
- Mandan, Hidatsa & Arikara Nation
- Sisseton-Wahpeton Oyate
- Spirit Lake Sioux Tribe (Mni Wakan Oyate)
- Standing Rock Sioux Tribe
- Turtle Mountain Band of Chippewa
- Winnebago Tribe of Nebraska
- Yankton Sioux Tribe

#### 6.4.3 Ponca Tribal Council Meetings

The Corps participated was asked to attend Ponca Tribal Council meetings to discuss various elements of the project. The following provides a summary of these meetings.

*May 30, 2009*

The Corps attended the Ponca Tribal Council meeting on May 30, 2009. At this meeting, the Corps presented the range of alternatives for the project, discussed the alternative screening process, and gathered input from the Ponca Tribe on the alternatives.

The Ponca Tribe expressed concern about the bluffs alignments in the west segment; this area is of great significance to the tribe because of the locations of cultural properties and plans for economic development. To help the Corps screen alternatives, the Ponca Tribe agreed to identify on maps provided by the Corps the general locations of cultural properties and potential development. Although the locations of cultural properties are already protected, the Corps would develop a document of non-disclosure for purposes of protecting the information relative to economic development.

The Ponca Tribe did not support one bluffs alternative over the other but would prefer that the road stay where it is. The tribe asked about pierced roadways, and the Corps noted that this is under consideration but has not yet been reviewed by agencies.

The Corps asked the Ponca Tribe to provide its position on the project in writing by mid-July. Subsequent correspondence (written and verbal) occurred from August through September to resolve identification of areas of concerns for the Ponca Tribe).

*December 7, 2009*

The Corps attended the Ponca Tribal Council meeting on December 7, 2009. The Corps presented information on alternative alignments and requested information on traditional cultural property locations.

The Ponca Tribe expressed concern about providing sensitive information to the Corps, and then that information being disclosed to the general public under a Freedom of Information Act (FOIA) request. The Corps looked into developing a non-disclosure agreement to protect Ponca Tribe interests. However, it was determined that developing such an agreement was not possible. The solution was to share information at future tribal council meetings. Therefore, the Ponca Tribe and the Corps will continue to coordinate through tribal council meetings with a mutual understanding of Ponca Tribe concerns.

Following the meeting, HDR, on behalf of the Corps, sent a letter dated December 8, 2009, to the Ponca Tribe providing the requested figures showing Alternatives B1 and B2.

*November 8, 2010*

The Corps attended the Ponca Tribal Council meeting on November 8, 2010. The Corps presented information on the alternatives and their potential but avoidable impacts on identified archaeological resources. NDOR created three avoidance alternatives for Alternative B1 that would avoid impacts on Sites 25KX10, 25KX1, 25KX219, and 28KX88 (see Chapter 4.0 for this discussion).

Following the meeting, the Corps sent a letter dated December 1, 2010, to the Ponca Tribe providing latitude and longitude coordinates of the four archaeological sites. The Corps requested that the Ponca Tribe document any concerns in a letter (received on March 26, 2011).

#### 6.4.4 Other Ponca Tribe Coordination

Following the Ponca Tribal Council meeting on December 7, 2009, a Ponca elder who works at the Ponca Tribe Museum, at the request of the Ponca Tribe, contacted the Corps to discuss resources of significance. The Corps sent the Ponca elder a series of maps that identified cultural resources identified in NDOR's archaeology research reports. A phone conversation with the Ponca elder confirmed that the information collected by NDOR was the same as the information found in the Ponca Tribe Museum.

A coordination letter was sent from the Corps on August 28, 2013, informing the Ponca Tribe of NDOR's redesign effort due to changes in the modeling used to develop Missouri River flood elevations.

The Corps sent a letter on August 14, 2015 to provide a copy of the Preliminary Draft EIS and to offer an opportunity to meet and discuss any questions or concerns.

#### 6.4.5 Santee Sioux Nation Tribal Meeting

The Corps participated was asked to attend Santee Sioux Nation Tribal Council meetings to discuss various elements of the project. The following provides a summary of this meeting and other subsequent coordination.

##### *June 3, 2009*

The Corps met with members of the Santee Sioux Nation on June 3, 2009. At this meeting, the Corps presented the range of alternatives for the project, discussed the alternative screening process, and gathered input from the Santee Sioux Nation on the alternatives.

The Santee Sioux Nation commented that west of Niobrara, the tribe has no issues other than concern for Ponca Tribe interests. East of Niobrara, the tribe has concerns with any alignment that does not provide direct access to existing properties and S-54D from N-12. The Corps asked if Alternative B1 would be acceptable if it could be modified to line up with S-54D. Although the tribe said yes, it still prefers the existing alignment.

The Santee Sioux Nation noted that Alternative B2 is not acceptable because it puts S-54D further away from N-12, routes traffic away from existing properties, and may affect future plans for properties in and around the proposed corridor.

The Santee Sioux Nation provided a letter to the Corps dated December 9, 2009. The tribe noted its preference for alternatives in the floodplain. The Santee Sioux Nation expressed concern that the bluffs alternatives would take N-12 away from S-54D, Feather Hill Express, and Ohia Casino & Bingo. The tribe noted potential business opportunities near the casino and gas station. The bluffs alternatives would also pose potential problems for the preservation of reservation and tribal lands as well as for the possibility of unearthing unmarked graves.

#### 6.4.6 Other Santee Sioux Nation Coordination

The Corps sent a letter dated December 1, 2010, to the Santee Sioux Nation providing information on the alternatives and their potential but avoidable impacts on identified archaeological resources. The

Corps requested any comments or concerns regarding the alternatives and their impacts on archaeological resources. The Santee Sioux Nation provided a response on December 9, 2009 identifying their concerns.

The Corps sent a letter dated January 15, 2010, to the Santee Sioux Nation describing the alternatives carried forward. The Corps noted that the Santee Sioux Nation's letter dated December 9, 2009, indicated the tribe's concern with disturbing unmarked graves, and the Corps asked if the Santee Sioux Nation would identify any areas known to them. No response was received.

A coordination letter was sent from the Corps on August 28, 2013, informing the Santee Sioux Nation of NDOR's redesign effort due to changes in the modeling used to develop Missouri River flood elevations.

The Corps sent a letter on August 14, 2015 to provide a copy of the Preliminary Draft EIS and to offer an opportunity to meet and discuss any questions or concerns.

## 6.5 PUBLIC INVOLVEMENT

An extensive public involvement program was implemented during the development of the project to effectively engage the general public and parties interested in the project. The following sections outline the key components of this program.

### 6.5.1 Public Meetings

#### *Public Scoping Meeting*

A public scoping meeting was held on August 28, 2008, from 6:00 to 8:30 p.m. at the WFLA Hall in Niobrara. The purpose of the meeting was for the Corps to present the preliminary project purpose and need, present preliminary alternatives, and gather information from the public about important issues and local concerns. Approximately 140 people attended this meeting, which was in an open-house format, and project team members were available to discuss issues and answer questions regarding the project and the EIS process. The Corps accepted written comments during and after the public scoping meeting, receiving the last comments on October 23, 2008. Written comments from the public are summarized below:

- Thirty-seven people submitted comments either in favor of repairing the road in its existing location, including widening and building up the present road, or opposed to moving the existing roadway alignment.
- Twenty-one individuals suggested removing sediment from one or more of the following: the Niobrara River, Lewis and Clark Lake, Bazile Creek, and Ponca Creek.
- Sixteen individuals expressed concerns about the stability of a roadway in the bluffs and potential rock slides.
- Thirteen individuals expressed concern that moving the road would impact local businesses and the local economy.
- Eleven people wanted to remove Gavins Point Dam or to allow more water to pass through the dam.
- Five people wanted to retain access to Niobrara, public recreation, and private property.

- Four individuals were concerned with the disturbance of Native American graves.
- Four people suggested building a dam upstream, above the Niobrara River.
- Three individuals suggested improving the bridges over the Niobrara River, Bazile Creek, and/or Ponca Creek.
- Three individuals stated that additional wetlands should not be created to mitigate for the wetland impacts due to a new roadway alignment as the wetlands have been growing in this area.
- Two people wanted to use wind power for energy needs in place of Gavins Point Dam.
- Two individuals were concerned with maintaining transportation connectivity to Standing Bear Bridge.
- Two individuals were concerned with kangaroo rat habitat.
- Two individuals stated that fishing and recreation in the area has decreased.
- Two people were concerned that the river is no longer navigable.
- Two individuals suggested using Niobrara chalk as a base of the roadway.
- Two people stated that Lazy River Acres provides property tax money for Niobrara and its schools.

### *Public Information Meeting*

A public information meeting was held on July 23, 2009, from 6:00 to 8:30 p.m. at the WFLA Hall in Niobrara. The purpose of the meeting was for the Corps to present the range of alternatives for the project, discuss the alternative screening process, and seek public input to aid the Corps in finalizing screening to determine the alternatives that will be carried forward in the EIS. Eighty-six people were documented to have attended this meeting, which began in an open-house format and included a formal presentation and a question-and-answer session. During the meeting, eight members of the community spoke; their comments are summarized as follows:

- Commentor 1
  - According to the Corps' website, a 2001 study indicates that there are 27,000 acres of wetlands from Gavins Point Dam to Verdel, and there are 150 to 200 acres of wetlands developing each year.
  - How many acres of wetlands are being impacted by the project?
  - How many acres of wetlands are being added every year?
  - What is the dam life expectancy?
  - What tribal concerns are being considered? The Santee Sioux Nation feels that the river is living and wild and should not be controlled.
  - There should be flood control, but the dam has to go.
- Commentor 2
  - We are the people of Niobrara.
- Commentor 3

- Travel out of Lazy Acres is critical.
  - This is primarily a sediment issue.
  - The Corps should wait to decide on a definitive plan of action until the Lewis and Clark Sediment Study is complete.
- Commentor 4
  - Knox County's recommendation is that the road should stay on the same footprint.
  - There is concern about the bluffs and farmstead.
- Commentor 5
  - Is there current access to engineering detail?
  - Is there consideration in the EIS for ongoing maintenance?
  - Is there a lot of engineering in the alternatives?
  - What is the extent of the cuts and fills?
  - From a regulation standpoint, how does the EIS affect the Section 404 permit decision?
  - Whose responsibility is the ongoing cost of the road?
- Commentor 6
  - What are we going to do about the sediment problem? How are we going to eliminate it?
  - This is a Gavins Point Dam problem.
  - What is going to happen in 100 years?
- Commentor 7
  - The big picture is that these people depend on this river.
  - When are you going to flood us out?
  - National Park Service is in control. The road is not the problem; it is the river and the people taking care of it.
- Commentor 8
  - Raising the road is a short-term fix.
  - The sediment and Gavins Point Dam are the problem.

The Corps accepted written comments during and after the public scoping meeting, receiving the last comments on October 22, 2009. The written comments from the public are summarized below:

- Commentor 1
  - What is the plan to continue to provide paved vehicular access from N-12 to Lazy River Acres?
  - What is the plan to prevent the higher waters in the Missouri River and Ponca Creek from eventually flooding Lazy River Acres?

- Why can't N-12 be constructed in its current location?
  - What are all the sources of funding for the proposed project?
  - Why not wait for the Lewis and Clark Lake Sedimentation Study to be completed before making decisions on the N-12 project?
- Commentor 2
  - Support for the Base of Bluffs alternative.
- Commentor 3
  - The roadway should stay on existing alignment.
  - Concerns with road slides and other problems associated with building in the bluffs.
- Commentor 4
  - Support for the Parallel alignment.
  - Expense of constructing in the bluffs.
- Commentor 5
  - Support for Base of Bluffs alternative.
  - Does not think Detour or One-Way alternatives should be considered.
- Commentor 6
  - Experiencing a lack of sandbars and wildlife habitat attributed to sediment deposition.
  - Gavins Point Dam is causing the problem.
  - High water levels will remove people from along the river.
- Commentor 7
  - Support for the Parallel alignment based on public opinion.
- Commentor 8
  - Concerns with the MNRR boundary.
  - Conflicting management plans of the Corps and the National Park Service.
- Commentor 9
  - Support for keeping the roadway on existing alignment.
  - Concerns with road slides in the bluffs.
- Commentor 10
  - Doesn't think the road west of Niobrara needs work.
  - Concerns with building in the bluffs, snow, and road slides.
  - Feels raising the road 3 to 4 feet and deepening Bazile Creek will fix the problem.
- Commentor 11
  - Against building the roadway in the bluffs.



- Concerns with current amount of wetlands and decrease in farmland.
- Commentor 12
  - Gavins Point Dam is the problem.
  - Support for leaving roadway in place.
  - Concerns about roadway stability.
  - Concerns with take of private land.
  - Commentor is meeting with Senator Mike Johanns in Washington, D.C.
- Commentor 13
  - Support for leaving roadway in place.
  - Suggests building a small dam “above the creeks.”
  - Gavins Point Dam was constructed in the wrong place.
- Commentor 14
  - Support for leaving the roadway in place.
  - Concerns about road slides in the bluffs.
- Commentor 15
  - Concerns about impacts on private landowners.
  - Concerns about access to private lands.
  - Requests information on what will happen to property with construction of N-12 and increased flooding.
- Commentor 16
  - Requests a definite time line for when the road will be constructed.

#### 6.5.2 Mail Distribution List

The Corps created a preliminary mail distribution list by identifying all of the landowners within the Study Area. A public notice of the Notice of Intent to prepare an EIS was sent to all individuals on this distribution list. At the two public meetings, attendees had the opportunity to indicate whether they wanted to be added to the mail distribution list on the meeting sign-in sheets and on the comment form. Following the public meetings, the mail distribution list was amended accordingly.

The mail distribution list will continue being amended as individuals request to be added.

#### 6.5.3 Public Notice

A Notice of Intent to prepare an EIS was published in the Federal Register on July 25, 2008. In addition, the public notice was sent to all individuals on the public mailing list.

#### 6.5.4 Project Newsletters

Prior to the public scoping meeting held on August 28, 2008, an initial newsletter was mailed the week of August 12, 2008, to all individuals on the Corps' project mailing list, which at that time consisted of landowners in the project area. The newsletter provided background information on the project and notified the recipients of the upcoming meeting.

Prior to the public information meeting held on July 23, 2009, a second newsletter was mailed the week of July 9, 2009, to all individuals on the Corps' project mailing list. The newsletter provided information on the range of alternatives for the project, summarized the public scoping meeting, and notified the recipients of the upcoming meeting.

A third project newsletter was mailed the week of October 14, 2013, to all individuals on the Corps' project mailing list. The newsletter provided an update on the project to explain why there was a delay in the NEPA process.

#### 6.5.5 Media Outreach

Prior to the public scoping meeting held on August 28, 2008, advertisements were published between August 14 and 28, 2008, in the *Yankton Daily Press and Dakotan*, the *Yankton County Observer*, the *Niobrara Tribune*, the *Verdigre Eagle*, the *Tyndall Tribune and Register*, and the *Avon Clarion*.

Prior to the public information meeting held on July 23, 2009, advertisements were published between July 8 and 18, 2009, in the same publications.

A news release was issued to the *Yankton Daily Press and Dakotan*, the *Yankton County Observer*, the *Niobrara Tribune*, the *Verdigre Eagle*, the *Tyndall Tribune and Register*, and the *Avon Clarion* on February 4, 2011, to provide an update on the project and identify the next steps in the NEPA process.

#### 6.5.6 Announcement Posters

Two weeks prior to the public scoping meeting held on August 28, 2008, meeting notification posters were placed in libraries in Niobrara and Verdigre, Nebraska, and Tyndall and Springfield, South Dakota; in post offices in Niobrara, Verdigre, and Springfield; in the Knox County extension office in Center, Nebraska; in the Gavins Point Corps office in Yankton, South Dakota; in the Discovery Center in Crofton, Nebraska; in the Legion Hall in Verdel, Nebraska; and in Farnik's Market in Niobrara.

Two weeks prior to the public information meeting held on July 23, 2009, meeting notification posters were placed in the same locations.

#### 6.5.7 Website

NDOR developed a project page on its website. This page was made public prior to the public scoping meeting and includes a project summary, project updates, contact information, electronic copies of the displays and handouts from public meetings, and electronic copies of project newsletters and other project-related documents. Any other relevant information will be posted on the website as the project progresses. The website address is <http://www.transportation.nebraska.gov/projects/niobrara-N12/index.htm>

## 6.6 REQUEST FOR COMMENTS ON THE DRAFT EIS

The Corps encourages all interested parties to submit written comments on any aspect of this Draft EIS. The Corps will consider all comments in preparing the Final EIS, which will include responses to all substantive comments, the Corps' final conclusions on potential impacts, and the Corps' final recommendations.

Written comments on the Draft EIS may be submitted by mail or email, and oral comments may be made by telephone. All correspondence should refer to N-12 Niobrara East and West. The deadline for submitting comments on the Draft EIS is November 23, 2015. When submitting comments, please be as specific as possible and substantiate your concerns and recommendations.

Written comments should be mailed to:

Rebecca Latka  
Project Manager, N-12 Niobrara East and West EIS  
Corps of Engineers, Omaha District  
Regulatory Branch, CENWO-OD-RF  
1616 Capitol Ave  
Omaha, NE 68102

Written comments can also be emailed to:

Rebecca.J.Latka@usace.army.mil

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